



**CITY OF LODI
COUNCIL COMMUNICATION**

TM

AGENDA TITLE: Adopt resolution declaring intention to amend Ordinance No. 1753, which establishes the Lodi Tourism Business Improvement District (LTBID) and method of levying and collecting assessments within the LTBID boundaries, and setting public hearing for March 16, 2005

MEETING DATE: February 16, 2005

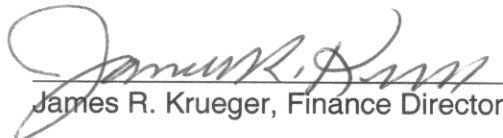
PREPARED BY: Finance Director

RECOMMENDED ACTION: A) That the City Council adopt a resolution declaring its intention to amend Ordinance 1753, Section 12.07.130 relating to the Levy of Assessment—Collection, Delinquency, and Penalty, changing the delinquent time for the report and amount due from twenty days to the last day of the month following the close of each calendar quarter.

B) That the time and place for the public hearing to amend Ordinance No. 1753, Section 12.07.130 relating to the Levy of Assessment—Collection, Delinquency, and Penalty, be set for March 16, 2005, at 7:00 p.m., at the Carnegie Forum, 305 West Pine Street, Lodi, California.

BACKGROUND INFORMATION: The City Council adopted Ordinance 1753 on October 20, 2004, and said ordinance took effect on January 1, 2005. Ordinance Number 1753 establishes that LTBID assessments are delinquent if not paid within 20 days after they are due. Transient Occupancy Taxes are due within one month after they are due. Since both the LTBID assessment and the Transient Occupancy Taxes are calculated using the same base room rental amounts, it is appropriate that both be due and payable on the same date each quarter. The date for payment of the LTBID assessment was inadvertently established to be twenty days after the end of the quarter. In order to make the due date consistent for payment of the LTBID assessment and Transient Occupancy Taxes it is necessary to amend Ordinance 1753, Section 12.07.130, which establishes the delinquency date for payments of the LTBID assessments. Amendment of Ordinance 1753 requires a public hearing for that purpose, which is recommended to occur on March 16, 2005.

FUNDING: Not applicable


James R. Krueger, Finance Director

JRK/
Attachments
cc: Nancy Beckman,LCVB

APPROVED: 
Blair King, City Manager

RESOLUTION NO. 2005-37

A RESOLUTION OF THE LODI CITY COUNCIL DECLARING
ITS INTENTION TO AMEND ORDINANCE 1753, WHICH
ESTABLISHES THE LODI TOURISM BUSINESS IMPROVEMENT
DISTRICT (LTBID) AND METHOD OF LEVYING AND
COLLECTING ASSESSMENTS WITHIN THE LTBID
BOUNDARIES

=====

WHEREAS, the Lodi City Council adopted a Resolution of Intention No. 2004-191 on September 15, 2004, declaring its intention to establish the Lodi Tourism Business Improvement District (LTBID) and to levy and collect assessments within the LTBID boundaries; and

WHEREAS, the Lodi City Council held a public hearing and introduced Ordinance 1753 to establish the LTBID and the levy of the assessments on October 6, 2004, at 7:00 p.m. at the Carnegie Forum, 305 West Pine Street, Lodi, California; and

WHEREAS, the Lodi City Council adopted Ordinance 1753 on October 20, 2004, which took effect on January 1, 2005; and

WHEREAS, Ordinance 1753 establishes that LTBID assessments are delinquent if not paid within twenty days after they are due; and

WHEREAS, Lodi Municipal Code Chapter 3.12, "Transient Occupancy Tax," establishes that Transient Occupancy Taxes are delinquent if not paid within one month after they are due; and

WHEREAS, it would be convenient for the assessment of both fees to be due at the same time; and

WHEREAS, the Lodi City Council now desires to amend Ordinance 1753, Section 12.07.130 as follows:

Section 12.07.130: Levy of Assessment--Collection, Delinquency, and Penalty.

The collection of the assessment imposed by this chapter shall be made on a quarterly basis from hotels within the City of Lodi. The City of Lodi will collect the assessment on the same form as that used for the collection of Transient Occupancy Tax receipts. Each operator shall, on or before the last day of each quarter, make a report to the Finance Director on forms provided by city of the amount of assessment due for that quarter. The report and amount become delinquent **twenty on the last day of the month following the close of each calendar quarter.** The full amount of the assessment calculated shall be remitted to the Finance Director at the time the return is filed. The Finance Director may establish shorter reporting or remitting periods for any operator and may require additional information in any return. Returns and payments are due immediately upon cessation of business for any reason. Each return shall contain a declaration under penalty of perjury, executed by the operator or its authorized agent, that, to the best of the declarant's knowledge, the statements in the return are true, correct, and complete.

Any operator who fails to remit any assessment imposed by this chapter within the time required shall pay a penalty of ten percent of the amount of the assessment in addition to the amount of the assessment. Any operator who fails to remit any delinquent remittance on or before the 15th day of the month following date of the first penalty shall pay a second delinquency penalty of ten percent of the amount of the assessment in addition to the amount of assessment and ten percent penalty first imposed.

If the Finance Director determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the assessment shall be added thereto in addition to the penalties stated above.

In addition to the penalties imposed, any operator who fails to remit any assessment imposed by this chapter shall pay interest at the rate of one percent per month or fraction thereof on the amount of tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

Every penalty imposed and such interest as accrued under the provisions of this section shall become a part of the assessment required to be paid by this chapter.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby resolve, determine, and find as follows:

Section 1. The recitals set forth herein are true and correct.

Section 2. The City Council declares its intention to amend Ordinance 1753, Section 12.07.130, relating to the Levy of Assessment—Collection, Delinquency, and Penalty, changing the delinquent time for the report and amount due from twenty days to the last day of the month following the close of each calendar quarter.

Section 3. The time and place for the public hearing to amend Ordinance No. 1753, Section 12.07.130, relating to the Levy of Assessment—Collection, Delinquency, and Penalty, is hereby set for **March 16, 2005, at 7:00 p.m., at the Carnegie Forum, 305 West Pine Street, Lodi, California.**

Section 4. At the public hearing the testimony of all interested persons for or against the amendment will be heard.

Section 5. A protest against the LTBD Ordinance amendment may be made in writing. To count in the majority protest against the LTBD, a protest must be in writing. A written protest may be withdrawn from writing at any time before the conclusion of the public hearing. Each written protest shall contain a written description of the business in which the person signing the protest is interested, sufficient to identify the business and its address. If the person signing the protest is not shown on the official records of the City of Lodi as the owner of the business, then the protest shall contain or be accompanied by written evidence that the person is the owner of the business. Any written protest as to the regularity or evidence of the proceedings shall be in writing and clearly state the irregularity or defect to which objection is made. Written protests must be received by the City Clerk of the City of Lodi before the close of the hearing scheduled herein and may be delivered to the City Clerk at City Hall, 221 W. Pine Street, Lodi, California, 95240 or mailed to the City Clerk at P.O. Box 3006, Lodi, CA 95241.

All proceedings before the City Council are conducted in English. The City of Lodi does not furnish interpreters, and, if one is needed, it shall be the responsibility of the person needing one.

If you challenge the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk/City Council at, or prior to, the public hearing.

Section 6. If, at the conclusion of the public hearing, there are of record, written protests by the owners of the businesses within the LTBD that will pay fifty percent (50%) or more of the total assessments of the entire LTBD (Exhibit A), no further proceedings to amend Ordinance 1753 as set forth herein shall occur. New proceedings to amend the LTBD shall not be undertaken again for a period of at least one (1) year from the date of the finding of the majority written protest by the City Council.

Section 7. Further information regarding the proposed amendment to LTBD Ordinance 1753 may be obtained from the City Clerk, City of Lodi, 221 West Pine Street, Lodi, California 95240.

Section 8. The City Clerk is instructed to provide notice of the public hearing as follows:

- a. Publish this Resolution of Intention in a newspaper of general circulation in the City of Lodi once, at least seven (7) days before the hearing.
- b. Mail complete copy of this Resolution of Intention to each and every business owner assessed in the LTBD within seven (7) days of the adoption of this Resolution by the City Council.

Section 9. This Resolution is effective on its adoption.

Dated: February 16, 2005

=====

I hereby certify that Resolution No. 2005-37 was passed and adopted by the City Council of the City of Lodi in a regular meeting held February 16, 2005, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Hitchcock, Johnson, Mounce,
and Mayor Beckman

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


SUSAN J. BLACKSTON
City Clerk

EXHIBIT A

Number of Votes

Wine and Roses Country Inn
Wine and Roses Country Inn, LLC
Agent for Service of Process : Russel G Munson
2505 W Turner Rd
Lodi, CA 95242
Phone: 209-334-6988
Bus Tax # : 2121

2472

Del Rancho Motel
Ashvin R Patel
501 N Cherokee Ln
Lodi, CA 95240
Phone: 209-368-5348
Bus Tax # : 10936

178

Holiday Inn Express
Daryl Geweke
PO Box 1210 (1140 S Cherokee Ln)
Lodi, CA 95241
Phone: 209-334-6422
Bus Tax # : 568

3237

Star Hotel
Jay K/Sangrita J Patel
22 S Main St
Lodi, CA 95240
Phone: 209-368-3261, 209-368-4122
Bus Tax # : 3467

4

Budget Inn of Lodi
Suresh B Patel
917 S Cherokee Ln
Lodi, CA 95240
Phone: 209-369-1091
Bus Tax # : 495

165

Comfort Inn - Lodi
KFP Management, Inc
Agent for Service of Process : Kyu S Kim
118 N Cherokee Ln
Lodi, CA 95240
Phone: 209-367-4848
Bus Tax # : 12851

1783

Lodi El Rancho Motel
R & P Properties, Inc
Agent for Service of Process : Ramesh Pitamber
220 Harding Bv (603 N Cherokee Ln)

510

EXHIBIT A

Roseville, CA 95678
Phone: 916-783-0961
Bus Tax #: 12126

Yadav & Assoc/Modern Motor Lodge
Sunil/Shobhana/Sushil/Sonal Yadav
1050 S Cherokee Ln
Lodi, CA 95240
Phone: 209-333-8844, 209-333-9812
Bus Tax #: 621

18

Wine Country Inn
Shobhana/Surendra F Patel
607 S Cherokee Ln
Lodi, CA 95240
Phone: 209-368-1152
Bus Tax #: 748

183

Rancho Grande Motel
Hasmukh M/Rita Bhakta
807 S Cherokee Ln
Lodi, CA 95240
Phone: 209-334-3303
Bus Tax #: 8627

55

Traveler's Hotel
Ghanshyam A/Mita Patel
112 N School St
Lodi, CA 95240
Phone: 209-368-1518
Bus Tax #: 444

23

Viking Motel
Rakesh G/Smita Patel
815 S Cherokee Ln
Lodi, CA 95240
Phone: 209-369-6229
Bus Tax #: 6900

69

Royal Host Inn
Chetan H/Prakash J/Pradeepkumar/Paresh J Patel
710 S Cherokee Ln
Lodi, CA 95240
Phone: 209-369-8484
Bus Tax #: 760

1169

Imperial Hotel
Mumraiez Ahmad
9 W Oak St
Lodi, CA 95240
Phone: 209-366-0964, 209-369-5744

8

EXHIBIT A

Bus Tax # : 391

Economy Inn
Hasmukh/Rita/Jayanti/Kalavati Bhakta
1100 S Cherokee Ln
Lodi, CA 95240
Phone: 209-368-3778
Bus Tax # : 8256

124

Main Hotel
Gurvant Bhatka
4 S Main St
Lodi, CA 95240
Phone: 209-334-6059
Bus Tax # : 1166

2

10000

NOTICE OF PUBLIC HEARING

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SUSAN J. BLACKSTON
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Bus Tax # : 8256

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Main Hotel
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Phone: 209-334-6059
BusTax # : 1166

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DECLARATION OF POSTING

SET PUBLIC HEARING FOR MARCH 16, 2005, TO CONSIDER A RESOLUTION OF INTENTION TO AMEND ORDINANCE 1753

On Friday, February 18, 2005, in the City of Lodi, San Joaquin County, California, a copy of a Notice of Public Hearing to consider approving the Countywide Master Annexation Agreement with San Joaquin County and adoption of the County Facility Fee Program, (attached hereto, marked Exhibit "A"), was posted at the following four locations:

Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum


I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 18, 2005, at Lodi, California

ORDERED BY:

SUSAN J. BLACKSTON
CITY CLERK

Jacqueline L. Taylor, CMC
Deputy City Clerk


Kari J. Chadwick
Administrative Clerk

Jennifer M. Perrin, CMC
Deputy City Clerk



***Please immediately confirm receipt
of this fax by calling 333-6702***

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: SET PUBLIC HEARING FOR MARCH 16, 2005, TO CONSIDER A RESOLUTION
OF INTENTION TO AMEND ORDINANCE 1753

LEGAL AD

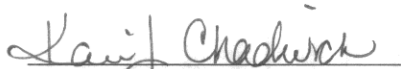
PUBLISH DATE: SATURDAY, FEBRUARY 22, 2005

TEAR SHEETS WANTED: Three (3) please

SEND AFFIDAVIT AND BILL TO: SUSAN BLACKSTON, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, FEBRUARY 17, 2005

ORDERED BY:


KARI J. CHADWICK
ADMINISTRATIVE CLERK

JACQUELINE L. TAYLOR, CMC
DEPUTY CITY CLERK

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

SEND PROOF OF ADVERTISEMENT. THANK YOU!!

LNS	Faxed to the Sentinel at 369-1084 at _____ (time) on _____ (date) _____ (pages)
	Phoned to confirm receipt of all pages at _____ (time) _____ Jac _____ KJC _____ Jen (initials)



DECLARATION OF MAILING

SET PUBLIC HEARING FOR MARCH 16, 2005, TO CONSIDER A RESOLUTION OF INTENTION TO AMEND ORDINANCE 1753

On February 18, 2005, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a Notice of Public Hearing for March 16, 2005, to consider a resolution of intention to amend ordinance 1753, marked Exhibit "A"; said envelopes were addressed as is more particularly shown on Exhibit "B" attached hereto.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 18, 2005, at Lodi, California.

ORDERED BY:

**SUSAN BLACKSTON
CITY CLERK, CITY OF LODI**

ORDERED BY:

JACQUELINE L. TAYLOR
DEPUTY CITY CLERK

JENNIFER M. PERRIN
DEPUTY CITY CLERK


KARI J. CHADWICK
ADMINISTRATIVE CLERK

Vine & Roses Country Inn
Russel G. Munson
505 W. Turner Road
Lodi, CA 95242

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Ashvin R. Patel
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Holiday Inn Express
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R&P Properties/Ramesh Pitamber
20 Harding Boulevard
Roseville, CA 95678

Modern Motor Lodge
Yadav & Associates
1050 S. Cherokee Lane
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Wine Country Inn
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607 S. Cherokee Lane
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Economy Inn
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1100 S. Cherokee Lane
Lodi, CA 95240

Main Hotel
Gurvant Bhatka
4 S. Main Street
Lodi, CA 95240

ADVISORY BOARD APPOINTEES AND LCVB:

Wine & Roses Country Inn
Tabitha Freytag
2505 W. Turner Road
Lodi, CA 95242

Comfort Inn – Lodi
Beth Kim
118 N. Cherokee Lane
Lodi, CA 95240

Wine Country Inn
Sonny Patel
607 S. Cherokee Lane
Lodi, CA 95240

Modern Motor Lodge
Sunil Yadav
1050 S. Cherokee Lane
Lodi, CA 95240

Frames & Fine Things
Mary Wallace
18 W. Pine Street
Lodi, CA 95240

Wine & Visitors Center
Kelli Mettler
2545 W. Turner Road
Lodi, CA 95242

Jewel Fine Wines
Betty Hansen
3750 E. Woodbridge Road
Woodbridge, CA 95258

Nancy Beckman, Executive Director
Lodi Conference & Visitors' Bureau
2545 W. Turner Road
Lodi, CA 95240

NOTICE OF PUBLIC HEARING

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A RESOLUTION OF THE LODI CITY COUNCIL DECLARING ITS INTENTION TO AMEND ORDINANCE 1753, WHICH ESTABLISHES THE LODI TOURISM BUSINESS IMPROVEMENT DISTRICT (LTBID) AND METHOD OF LEVYING AND COLLECTING ASSESSMENTS WITHIN THE LTBID BOUNDARIES

WHEREAS, the Lodi City Council adopted a Resolution of Intention No. 2004-191 on September 15, 2004, declaring its intention to establish the Lodi Tourism Business Improvement District (LTBID) and to levy and collect assessments within the LTBID boundaries; and

WHEREAS, the Lodi City Council held a public hearing and introduced Ordinance 1753 to establish the LTBID and the levy of the assessments on October 6, 2004, at 7:00 p.m. at the Carnegie Forum, 305 West Pine Street, Lodi, California; and

WHEREAS, the Lodi City Council adopted Ordinance 1753 on October 20, 2004, which took effect on January 1, 2005; and

WHEREAS, Ordinance 1753 establishes that LTBID assessments are delinquent if not paid within twenty days after they are due; and

WHEREAS, Lodi Municipal Code Chapter 3.12, "Transient Occupancy Tax," establishes that Transient Occupancy Taxes are delinquent if not paid within one month after they are due; and

WHEREAS, it would be convenient for the assessment of both fees to be due at the same time; and

WHEREAS, the Lodi City Council now desires to amend Ordinance 1753, Section 12.07.130 as follows:

Section 12.07.130: Levy of Assessment--Collection, Delinquency, and Penalty.

The collection of the assessment imposed by this chapter shall be made on a quarterly basis from hotels within the City of Lodi. The City of Lodi will collect the assessment on the same form as that used for the collection of Transient Occupancy Tax receipts. Each operator shall, on or before the last day of each quarter, make a report to the Finance Director on forms provided by city of the amount of assessment due for that quarter. The report and amount become delinquent twenty on the last day of the month following the close of each calendar quarter. The full amount of the assessment calculated shall be remitted to the Finance Director at the time the return is filed. The Finance Director may establish shorter reporting or remitting periods for any operator and may require additional information in reason. Returns and payments are due immediately upon cessation of business for any operator. Each return shall contain a declaration under penalty of perjury, executed by the operator or its authorized agent, that, to the best of the declarant's knowledge, the statements in the return are true, correct, and complete.

Any operator who fails to remit any assessment imposed by this chapter within the time required shall pay a penalty of ten percent of the amount of the assessment in addition to the amount of the assessment. Any operator who fails to remit any delinquent remittance on or before the 15th day of the month following date of the first penalty shall pay a second delinquency penalty of ten percent of the amount of the assessment in addition to the amount of assessment and ten percent penalty first imposed.

If the Finance Director determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the assessment shall be added thereto in addition to the penalties stated above.

In addition to the penalties imposed, any operator who fails to remit any assessment imposed by this chapter shall pay interest at the rate of one percent per month or fraction thereof on the amount of tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

Every penalty imposed and such interest as accrued under the provisions of this section shall become a part of the assessment required to be paid by this chapter.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby resolve, determine, and find as follows:

Section 1. The recitals set forth herein are true and correct.

Section 2. The City Council declares its intention to amend Ordinance 1753, Section 12.07.130, relating to the Levy of Assessment--Collection, Delinquency, and Penalty, changing the delinquent time for the report and amount due from twenty days to the last day of the month following the close of each calendar quarter.

Section 3. The time and place for the public hearing to amend Ordinance No. 1753, Section 12.07.130, relating to the Levy of Assessment--Collection, Delinquency, and Penalty, is hereby set for **March 16, 2005, at 7:00 p.m., at the Carnegie Forum, 305 West Pine Street, Lodi, California.**

Section 4. At the public hearing the testimony of all interested persons for or against the amendment will be heard.

Section 5. A protest against the LTBID Ordinance amendment may be made in writing. To count in the majority protest against the LTBID, a protest must be in writing. A written protest may be withdrawn from writing at any time before the conclusion of the public hearing. Each written protest shall contain a written description of the business in which the person signing the protest is interested, sufficient to identify the business and its address. If the person signing the protest is not shown on the official records of the City of Lodi as the owner of the business, then the protest shall contain or be accompanied by written evidence that the person is the owner of the business. Any written protest as to the regularity or evidence of the proceedings shall be in writing and clearly state the irregularity or defect to which objection is made. Written protests must be received by the City Clerk of the City of Lodi before the close of the hearing scheduled herein and may be delivered to the City Clerk at City Hall, 221 W. Pine Street, Lodi, California, 95240 or mailed to the City Clerk at P.O. Box 3006, Lodi, CA 95241.

All proceedings before the City Council are conducted in English. The City of Lodi does not furnish interpreters, and, if one is needed, it shall be the responsibility of the person needing one.

If you challenge the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk/City Council at, or prior to, the public hearing.

Section 6. If, at the conclusion of the public hearing, there are of record, written protests by the owners of the businesses within the LTBID that will pay fifty percent (50%) or more of the total assessments of the entire LTBID, no further proceedings to amend Ordinance 1753 as set forth herein shall occur. New proceedings to amend the LTBID shall not be undertaken again for a period of at least one (1) year from the date of the finding of the majority written protest by the City Council.

Section 7. Further information regarding the proposed amendment to LTBID Ordinance 1753 may be obtained from the City Clerk, City of Lodi, 221 West Pine Street, Lodi, California 95240.

Section 8. The City Clerk is instructed to provide notice of the public hearing as follows:

a. Publish this Resolution of Intention in a newspaper of general circulation in the City of Lodi once, at least seven (7) days before the hearing.

b. Mail complete copy of this Resolution of Intention to each and every business owner assessed in the LTBID within seven (7) days of the adoption of this Resolution by the City Council.

Section 9. This Resolution is effective on its adoption.

Dated: February 16, 2005

I hereby certify that Resolution No. 2005-37 was passed and adopted by the City Council of the City of Lodi in a regular meeting held February 16, 2005, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Hitchcock, Johnson, Mounce, and Mayor Beckman
NOES: COUNCIL MEMBERS – None
ABSENT: COUNCIL MEMBERS – None
ABSTAIN: COUNCIL MEMBERS – None

SUSAN J. BLACKSTON
City Clerk

Approved as to form:
D. Stephen Schwabauer
City Attorney
February 22, 2005

NOTICE OF PUBLIC HEARING

RESOLUTION NO. 2005-37

A RESOLUTION OF THE LODI CITY COUNCIL DECLARING ITS INTENTION TO AMEND ORDINANCE 1753, WHICH ESTABLISHES THE LODI TOURISM BUSINESS IMPROVEMENT DISTRICT (LTBID) AND METHOD OF LEVYING AND COLLECTING ASSESSMENTS WITHIN THE LTBID BOUNDARIES

WHEREAS, the Lodi City Council adopted a Resolution of Intention No. 2004-191 on September 15, 2004, declaring its intention to establish the Lodi Tourism Business Improvement District (LTBID) and to levy and collect assessments within the LTBID boundaries; and

WHEREAS, the Lodi City Council held a public hearing and introduced Ordinance 1753 to establish the LTBID and the levy of the assessments on October 6, 2004, at 7:00 p.m. at the Carnegie Forum, 305 West Pine Street, Lodi, California; and

WHEREAS, the Lodi City Council adopted Ordinance 1753 on October 20, 2004, which took effect on January 1, 2005; and

WHEREAS, Ordinance 1753 establishes that LTBID assessments are delinquent if not paid within twenty days after they are due; and

WHEREAS, Lodi Municipal Code Chapter 3.12, "Transient Occupancy Tax," establishes that Transient Occupancy Taxes are delinquent if not paid within one month after they are due; and

WHEREAS, it would be convenient for the assessment of both fees to be due at the same time; and

WHEREAS, the Lodi City Council now desires to amend Ordinance 1753, Section 12.07.130 as follows:

Section 12.07.130: Levy of Assessment--Collection, Delinquency, and Penalty.

The collection of the assessment imposed by this chapter shall be made on a quarterly basis from hotels within the City of Lodi. The City of Lodi will collect the assessment on the same form as that used for the collection of Transient Occupancy Tax receipts. Each operator shall, on or before the last day of each quarter, make a report to the Finance Director on forms provided by city of the amount of assessment due for that quarter. The report and amount become delinquent twenty on the last day of the month following the close of each calendar quarter. The full amount of the assessment calculated shall be remitted to the Finance Director at the time the return is filed. The Finance Director may establish shorter reporting or remitting periods for any operator and may require additional information in any return. Returns and payments are due immediately upon cessation of business for any reason. Each return shall contain a declaration under penalty of perjury, executed by the operator or its authorized agent, that, to the best of the declarant's knowledge, the statements in the return are true, correct, and complete.

Any operator who fails to remit any assessment imposed by this chapter within the time required shall pay a penalty of ten percent of the amount of the assessment in addition to the amount of the assessment. Any operator who fails to remit any delinquent remittance on or before the 15th day of the month following date of the first penalty shall pay a second delinquency penalty of ten percent of the amount of the assessment in addition to the amount of assessment and ten percent penalty first imposed.

If the Finance Director determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the assessment shall be added thereto in addition to the penalties stated above.

In addition to the penalties imposed, any operator who fails to remit any assessment imposed by this chapter shall pay interest at the rate of one percent per month or fraction thereof on the amount of tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

Every penalty imposed and such interest as accrued under the provisions of this section shall become a part of the assessment required to be paid by this chapter.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby resolve, determine, and find as follows:

Section 1. The recitals set forth herein are true and correct.

Section 2. The City Council declares its intention to amend Ordinance 1753, Section 12.07.130, relating to the Levy of Assessment--Collection, Delinquency, and Penalty, changing the delinquent time for the report and amount due from twenty days to the last day of the month following the close of each calendar quarter.

Section 3. The time and place for the public hearing to amend Ordinance No. 1753, Section 12.07.130, relating to the Levy of Assessment--Collection, Delinquency, and Penalty, is hereby set for **March 16, 2005, at 7:00 p.m., at the Carnegie Forum, 305 West Pine Street, Lodi, California.**

Section 4. At the public hearing the testimony of all interested persons for or against the amendment will be heard.

Section 5. A protest against the LTBID Ordinance amendment may be made in writing. To count in the majority protest against the LTBID, a protest must be in writing. A written protest may be withdrawn from writing at any time before the conclusion of the public hearing. Each written protest shall contain a written description of the business in which the person signing the protest is interested, sufficient to identify the business and its address. If the person signing the protest is not shown on the official records of the City of Lodi as the owner of the business, then the protest shall contain or be accompanied by written evidence that the person is the owner of the business. Any written protest as to the regularity or evidence of the proceedings shall be in writing and clearly state the irregularity or defect to which objection is made. Written protests must be received by the City Clerk of the City of Lodi before the close of the hearing scheduled herein and may be delivered to the City Clerk at City Hall, 221 W. Pine Street, Lodi, California, 95240 or mailed to the City Clerk at P.O. Box 3006, Lodi, CA 95241.

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If you challenge the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk/City Council at, or prior to, the public hearing.

Section 6. If, at the conclusion of the public hearing, there are of record, written protests by the owners of the businesses within the LTBID that will pay fifty percent (50%) or more of the total assessments of the entire LTBID, no further proceedings to amend Ordinance 1753 as set forth herein shall occur. New proceedings to amend the LTBID shall not be undertaken again for a period of at least one (1) year from the date of the finding of the majority written protest by the City Council.

Section 7. Further information regarding the proposed amendment to LTBID Ordinance 1753 may be obtained from the City Clerk, City of Lodi, 221 West Pine Street, Lodi, California 95240.

Section 8. The City Clerk is instructed to provide notice of the public hearing as follows:

a. Publish this Resolution of Intention in a newspaper of general circulation in the City of Lodi once, at least seven (7) days before the hearing.

b. Mail complete copy of this Resolution of Intention to each and every business owner assessed in the LTBID within seven (7) days of the adoption of this Resolution by the City Council.

Section 9. This Resolution is effective on its adoption.

Dated: February 16, 2005

I hereby certify that Resolution No. 2005-37 was passed and adopted by the City Council of the City of Lodi in a regular meeting held February 16, 2005, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Hitchcock, Johnson, Mounce, and Mayor Beckman
NOES: COUNCIL MEMBERS – None
ABSENT: COUNCIL MEMBERS – None
ABSTAIN: COUNCIL MEMBERS – None

SUSAN J. BLACKSTON
City Clerk

Approved as to form:
D. Stephen Schwabauer
City Attorney
February 19, 23, 2005

PROOF OF PUBLICATION

(2015.5 C.C.C.P.)

STATE OF CALIFORNIA

County of San Joaquin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the Lodi News-Sentinel, a newspaper of general circulation, printed and published daily except Sundays and holidays, in the City of Lodi, California, County of San Joaquin and which newspaper had been adjudicated a newspaper of general circulation by the Superior Court, Department 3, of the County of San Joaquin, State of California, under the date of May 26th, 1953. Case Number 65990; that the notice of which the annexed is a printed copy (set in type not smaller than non-pareil) has been published in each regular and entire issue of said newspaper and not in any supplement thereto on the following dates to-wit:

February 24th

all in the year 2005.

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated at Lodi, California, this 24th day of February, 2005

Signature

This space is for the County Clerk's Filing Stamp

Proof of Publication of

Notice of Public Hearing
City of Lodi, Resolution No. 2005-37

**NOTICE OF PUBLIC HEARING
RESOLUTION NO. 2005-37**

A RESOLUTION OF THE LODI CITY COUNCIL DECLARING ITS INTENTION TO AMEND ORDINANCE 1753, WHICH ESTABLISHES THE LODI TOURISM BUSINESS IMPROVEMENT DISTRICT (LTBID) AND METHOD OF LEVYING AND COLLECTING ASSESSMENTS WITHIN THE LTBID BOUNDARIES

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Section 8. At the conclusion of the public hearing, there are of record, written protests by the owners of the businesses within the LTBID that will pay fifty percent (50%) or more of the total assessments of the entire LTBID, no further proceedings to amend Ordinance 1753 as set forth herein shall occur. New proceedings to amend the LTBID shall not be undertaken again for a period of at least one (1) year from the date of the finding of the majority written protest by the City Council.

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Section 9. This Resolution is effective on its adoption.

Dated: February 16, 2005

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AYES: COUNCIL MEMBERS — Hansen, Hatchcock, Johnson, Mounie, and Mayor Beckman
NOES: COUNCIL MEMBERS — None
ABSTAIN: COUNCIL MEMBERS — None

SUSAN J. BLACKSTON
City Clerk

Approved as to form: *[Signature]*
D. Stephen Schwabauer
City Attorney